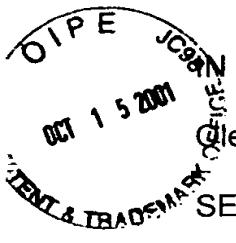


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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



IN THE APPLICATION OF

Die Ploug et al

SERIAL NO.: 09/000,008

FILED: January 15, 1998

FOR: AXIAL PISTON MICROPUMP

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196-1142



#10

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE THE APPLICATION OF

Ole Ploug et al.

SERIAL NO.: 09/000,008

FILED: January 15, 1998

FOR: AXIAL PISTON MICROPUMP

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Legal Start  
International Division

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to "Assistant Commissioner of Patents, Washington, D.C. 20231, Box: " on October 6, 1999.

Name of person signing Lori M. Beggs

Signature

**PETITION TO THE COMMISSIONER PURSUANT TO 37 C.F.R. §1.182**

Honorable Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Dear Sir:

The Applicants petition the Commissioner to accept change of name of the second-named inventor, Jakob Bogh Poulsen, to Jakob Bogh Schubert.

As explained in the papers filed in this application, Mr. Schubert's surname previously was Poulsen, but due to marriage, his surname was changed to Schubert. His full name is now Jakob Bogh Schubert, and in a paper dated June 24, 1998 and of record in this application, Mr. Schubert signed the appropriate declaration explaining the change of name, with his signature being both his former name (Jakob Bogh Poulsen), and his current name (Jakob Bogh Schubert). That document was submitted with a request for reconsideration mailed to the Patent and Trademark Office on December 21, 1998 and received by the Patent and Trademark Office on December 24, 1998. An original signed declaration of Mr. Schubert was mailed to the Patent and Trademark

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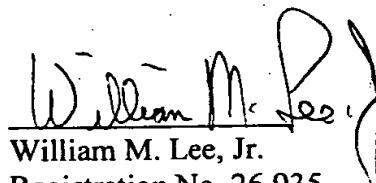
Office on March 19, 1999 and received by the Patent and Trademark Office on March 22, 1999.

Also submitted herewith is the petition fee of \$130 set forth in 37 C.F.R. §1.17(h).

Granting of this petition based upon evidence already of record is therefore requested.

October 6, 1999

Respectfully submitted,

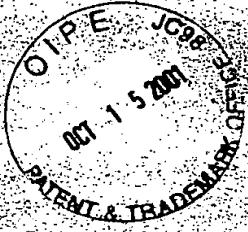
  
William M. Lee, Jr.  
Registration No. 26,935

Lee, Mann, Smith, McWilliams,  
Sweeney & Ohlson  
P.O. Box 2786  
Chicago, Illinois 60690-2786  
(312) 368-6620  
(312) 368-0034 (fax)

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CASE NO. 196-1142  
Danfoss

Please acknowledge  
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enclosed:

Ole Ploug et al.

SERIAL NO: 09/000,008

FILING DATE: January 15, 1998

1. Petition Under 37 C.F.R. §1.137 With  
Accompanying Petition Under 37 C.F.R. §1.182  
with Certificate of Mailing
2. Petition to the Commissioner Pursuant to 37 C.F.R.  
§1.182 with Certificate of Mailing
3. Copy of Petition on Decision
4. Check No. 35941 for \$240.00
5. Return Post Card.

DATE SENT:

October 6, 1999

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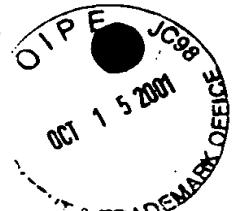
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and Trademarks  
Washington, D.C. 20531-9998

035941-0707150238281 0004124605#

196-1142



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE THE APPLICATION OF

Ole Ploug et al.

SERIAL NO.: 09/000,008

FILED: January 15, 1998

FOR: AXIAL PISTON MICROPUMP

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to "Assistant Commissioner of Patents, Washington, D.C. 20231, Box:" on October 6, 1999.

Name of person signing Lori M. Beggs

Signature Lori M. Beggs

**PETITION UNDER 37 C.F.R. §1.137 WITH ACCOMPANYING**  
**PETITION UNDER 37 C.F.R. §1.182**

Honorable Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Dear Sir:

In relation to this application, which is currently considered by the Patent and Trademark Office to be abandoned, the Applicants petition for revival of the application under 37 C.F.R. §1.137(a) in that the abandonment was unavoidable. Alternatively, the Applicants petition for revival of the application under 37 C.F.R. §1.137(b) on the basis that the abandonment was unintentional. The basis for this petition follows immediately.

As the record for this application will show, the application is the national filing of International Application No. PCT/DK96/00302. When the international application was filed, it properly identified three inventors, Ole Ploug, Jakob Bogh Poulsen, and Christian Peter Enggaard.

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When the U.S. national application was filed, no declaration was submitted with the application. In response to a Notification of Missing Requirements issued March 16, 1998, however, on March 23, 1998 a declaration was submitted to the Patent and Trademark Office. That declaration was signed by all three inventors, but Mr. Poulsen signed the declaration as "Jakob Bogh Schubert" indicating that his name formerly was Jakob Bogh Poulsen.

On May 26, 1998, the Patent and Trademark Office issued a Notification of Defective Oath or Declaration, indicating that the declaration did not identify Mr. Poulsen. In response to that notice, a paper entitled "Response to Notification of a Defective Response" was mailed to the Patent and Trademark Office on June 11, 1998, explaining the situation and identifying the fact that the proper inventor had signed, but with his new name.

On December 9, 1998, the Patent and Trademark Office considered the Notification of Defective Response, and issued a Decision On Request And Notification, indicating that because proper signature by the inventor Schubert was not before the Patent and Trademark Office, the application was considered to be abandoned.

On December 21, 1998, a request for reconsideration was filed, explaining that timely papers had, in fact, been submitted to the Patent and Trademark Office, but one of the inventors, namely Mr. Poulsen, has changed his surname to Schubert. Then, on January 21, 1999, the Patent and Trademark Office issued a Notice of Abandonment, and the undersigned filed a further paper with the Patent and Trademark Office requesting withdrawal of the Notification of Abandonment. That ultimately led to an August 26, 1999 Decision On Petition, in which the Patent and Trademark Office ruled that the application remains abandoned, and recommended filing of the instant petition.

It is requested that this petition be considered pursuant to 37 C.F.R. §1.137(a) as being unavoidable. In the August 26, 1999 Decision On Petition, the Patent and Trademark Office

stated that Section 605.04(c) of the Manual of Patent Examining Procedure plainly states that when an inventors name is changed, he or she must submit a petition under 37 C.F.R. §1.182. That actually already occurred in this application (see the Request mailed December 21, 1998 which specifically requests that it be alternatively considered as a petition pursuant to 37 C.F.R. §1.182), but nothing in MPEP §605.04(c) explains that if an inventor signs an application with his or her new name, that could lead to abandonment of the application. Indeed, nothing that has been found in the Manual of Patent Examining Procedure which explains that such a result would occur, particularly when the inventor properly signed the application with his new name, and indicated that it was a change of name. While the Applicants could expect that an appropriate petition to accept the name change would need to be filed, nothing in the Manual of Patent Examining Procedure or rules would suggest potential abandonment of the application in this situation.

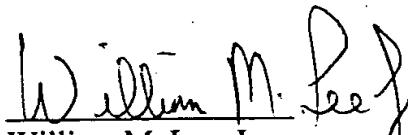
Accordingly, Applicants petition for revival of this application on the basis that the abandonment was unavoidable. As required pursuant to 37 C.F.R. §1.137(a), submitted with this petition is (1) the required reply, that being a petition pursuant to 37 C.F.R. §1.182, (2) the \$110.00 petition fee as set forth in 37 C.F.R. §1.17(l), and (3) a showing, as explained above, that the entire time from the abandonment of the application until the filing of a grantable petition was unavoidable. No terminal disclaimer is required in this situation.

Alternately, while it is submitted that abandonment of the application clearly falls within the unavoidable basis for revival of the application, if the Patent and Trademark Office determines otherwise, it is requested that this petition be considered under 37 C.F.R. §1.13(b) as being unintentional. For the reasons stated, the entire delay until the filing of a grantable petition was, and remains, unintentional. Never was abandonment of this application intended, and as the record will show, the opposite result has always been sought.

Good cause having been shown, revival of this application is requested. Any additional fees deemed necessary should be deducted from deposit account number 12-0913.

October 6, 1999

Respectfully submitted,



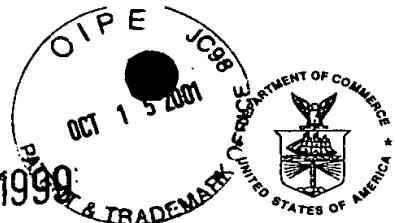
William M. Lee, Jr.  
Registration No. 26,935

Lee, Mann, Smith, McWilliams,  
Sweeney & Ohlson  
P.O. Box 2786  
Chicago, Illinois 60690-2786  
(312) 368-6620  
(312) 368-0034 (fax)

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UNITED STATES **PARTMENT OF COMMERCE**  
Patent and Trademark Office

Patent Cooperation Treaty  
Legal Office

Address: Assistant Commissioner for Patents  
Box PCT  
Washington, D.C. 20231

William M. Lee, Jr.  
LEE MANN SMITH McWILLIAMS SWEENEY & OHLSON  
P.O. Box 2786  
Chicago, IL 60690-2786

**R E C E I V E D**  
AUG 31 1999

LEE, MANN, SMITH,  
McWILLIAMS, SWEENEY & OHLSON

In re Application of :  
PLOUG, Ole et al :  
U.S. Application No.: 09/000,008 :  
PCT No.: PCT/DK96/00302 :  
Int. Filing Date: 04 July 1996 :  
Priority Date: 15 July 1995 :  
Attorney's Docket No.: 196-1142 :  
For: AXIAL PISTON MICROPUMP :

This decision is in response to applicants' "Request for Reconsideration of Decision on Request and Notification" filed 24 December 1998 and "Request for Withdrawal of Notification of Abandonment, Withdrawal of Notification of a Defective Response, and Supplement to Request for Reconsideration on Decision on Request and Notification" filed 22 March 1999.

**BACKGROUND**

On 09 December 1998, a decision dismissing applicant's petition filed 15 June 1998 was mailed. The application was abandoned as of 17 April 1998 for failure to file a timely complete and proper response to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) mailed 16 March 1998.

On 24 December 1998, applicants filed a "Request for Reconsideration of Decision on Request and Notification" which was accompanied by, *inter alia*, a Declaration of Jakob Bogh Schubert (Formerly Jakob Bogh Poulsen).

On 22 March 1999, applicants submitted a "Request for Withdrawal of Notification of Abandonment, Withdrawal of Notification of a Defective Response, and Supplement to Request for Reconsideration on Decision on Request and Notification" which was also accompanied by a Declaration of Jakob Bogh Schubert (Formerly Jakob Bogh Poulsen).

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### DISCUSSION

A review of the above-captioned application shows that the application was abandoned for failure to file a timely complete and proper response to Form PCT/DO/EO/905 mailed 16 March 1998. Specifically, applicants' petition filed 15 June 1998, did not include a grantable petition pursuant to 37 CFR 1.182. Accordingly, the declaration filed 26 March 1998 was not acceptable.

In the instant request to reconsider the prior decision, applicants argue that there "appears to be no rule or procedure which exactly applies to this rather unique situation, where all inventors sign the declaration and the declaration was timely filed, but one of the inventors changed his name and signed the declaration with his new name." Pet. ¶ 4 (24 Dec. 1998).

However, section 605.04(c) of the Manual of Patent Examining Procedure plainly states that "[i]n cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182." That is clearly what occurred here.

The declaration of Mr. Schubert submitted 29 June 1998, 24 December 1998, and 22 March 1999, verified that his name changed from Poulsen to Schubert after the filing of the international application. Since applicants did not furnish the requisite petition under 37 CFR 1.182, the declaration filed 26 March 1998 was not in compliance with 37 CFR 1.497(a) and (b) in that it does not identify all the inventors.

Consequently, the application was properly abandoned for failing to properly respond to the Form PCT/DO/EO/905 mailed 16 March 1998 requesting an oath or declaration in compliance with 37 CFR 1.497(a) and (b).

### RECOMMENDATION

Applicants may wish to consider filing a petition to the Commissioner under 37 CFR 1.137(a) or (b), along with a proper reply. A proper reply would include a petition under 37 CFR 1.182 requesting to change the name of Jakob Bogh Poulsen to Jakob Bogh Schubert on the international application.

### CONCLUSION

For the reasons noted above, applicants' request for reconsideration is **DISMISSED** without prejudice.

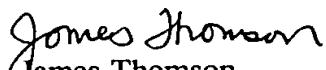
The application remains **ABANDONED**.

Since the above-captioned application is abandoned, applicants' request under 37 CFR 1.182 and 1.183 will not be considered. Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.



Richard Lazarus  
Supervisory PCT Legal Examiner  
PCT Legal Office

JT/RL:jt



James Thomson  
Petitions Attorney  
PCT Legal Office

Tel: (703) 308-6457

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